

May 1, 2019

Mr. Devin Leary
Human & Rohde, Inc.
512 Virginia Avenue
Towson, MD 21286

Re: Townes at Pahl's Farm at 4223 Bedford Road
Forest Conservation Variance
Tracking #02-19-2985

Dear Mr. Leary:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on April 25, 2019. If granted, the variance would allow removal of three (3) specimen trees in order to develop a proposed 24-lot mixed unit residential development consisting of 17 townhouses, 6 semi-detached homes, and the renovation of an existing single-family house. The 4.6-acre property contains no forest and is improved with two single family dwellings and abandoned greenhouses. The specimen trees to be removed include a 54-inch diameter-at-breast-height (DBH) silver maple in good condition, a 36-inch silver maple in good condition, and a 41-inch silver maple in poor condition. There are six other specimen trees on or near the property that will not be impacted by the proposed construction.

The Director of the Department of Environmental Protection and Sustainability (EPS) may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of the property. The applicant is seeking to construct a new 24-lot development. Given that two single-family dwellings already exist on the property and that the property previously functioned as a working farm, full application of the law would not deprive the applicant of all beneficial use of his property. Consequently, we find that this criterion has not been met.

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The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner's plight is due the number and distribution of specimen trees across the site rather than general conditions of the neighborhood. Therefore, we find that the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The surrounding neighborhood consists of predominantly townhomes and medium to high density single-family dwellings, as well as a public elementary and middle school across the street. Given that the proposed project will add more townhomes and single-family dwellings to the area, we find that granting this variance will not alter the essential character of this neighborhood and that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The project will not impact any streams, wetlands, floodplains, or associated buffers. Moreover, stormwater management will be designed in accordance with current regulations and proper erosion and sediment control devices will be utilized. As such, this Department finds that the proposed variance will not adversely affect water quality. Consequently, this criterion has been met.

The fifth criterion (Subsection 33-6-116(e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions resulting in conditions or circumstances requiring this special variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code. Although three specimen trees are to be removed, the applicant will be required to provide 0.7 acre of afforestation offsite since no priority planting area exists onsite. Moreover, six of the nine specimen trees on and near the site will be retained and protected from impact during construction. Therefore, we find that this variance is consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code and that this criterion has been met.

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Based on our review, this Department finds that all required variance criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with the following conditions:

1. Given their good condition, mitigation for the 54-inch DBH silver maple and the 36-inch DBH silver maple is required and shall be provided via a \$4,091.69 fee-in-lieu. The fee-in-lieu must be paid prior to EPS approval of any grading or building permit. Please make checks payable to Baltimore County. Mitigation is not required for the 41-inch DBH silver maple due to its poor condition.
2. A final Forest Conservation Plan detailing the protection of the remaining specimen trees shall be approved by EPS, and the 0.7 acre of offsite afforestation provided prior to grading plan approval.
3. The following note must be on all subsequent plans for this development project:

“A variance was granted on May 1, 2019 by Baltimore County Dept. of Environmental Protection and Sustainability to remove three specimen trees. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met, including the payment of a fee-in-lieu of specimen tree mitigation and 0.7 acre of afforestation provided offsite.”

This variance approval does not exempt future development activities or future removal of specimen trees at this site from compliance with Baltimore County's Forest Conservation Law. It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens
Director

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DVL/lbe

- c. Pahl Farm Limited Partnership c/o CHAI, Owner
Mr. Nick Linehan, Colbert Matz Rosenfelt
Ms. Marian Honeczy, Maryland Department of Natural Resources

I/we agree to the above conditions to bring my/our property into compliance with
Baltimore County's Forest Conservation Law.

Owner's Signature

Date

Printed Name